

## Department of Health and Human Services

## § 50.6

(1) Require the Exchange Visitor to provide primary medical care in a facility physically located in an HHS-designated primary care HPSA or MUA/P, or general psychiatric care in a Mental Health HPSA.

(2) Require the Exchange Visitor to complete a term of employment of not less than three years providing primary care health services for not less than 40 hours per week.

(3) Require the Exchange Visitor to:

(i) Be licensed by the State where he or she will practice;

(ii) Have completed a residency in one of the following specialties: family practice, general pediatrics, obstetrics/gynecology, general internal medicine, or general psychiatry; and

(iii) Be either board certified or board eligible in the relevant primary care discipline.

(4) Be terminable only for cause until completion of the three-year commitment, except that, with the agreement of the alien physician, the employer may assign the contract to another eligible employer with the prior approval of HHS and compliance with all applicable INS and Department of Labor requirements. Prior to approving an assignment of the contract, HHS will review and consider the health care needs of the alien physician's current and proposed new locations, as well as the reasons for the request.

(5) Not contain a restrictive covenant or non-compete clause which prevents or discourages the physician from continuing to practice in any HHS-designated primary care HPSA or MUA/P or Mental Health HPSA after the period of obligation under the contract has expired.

(6) Provide that any amendment to the contract complies with all applicable Federal statutes, regulations and HHS policy.

(7) Be consistent with all applicable Federal statutes, regulations and HHS policy.

(e) The facility or practice sponsoring the physician:

(1) Must provide health services to individuals without discriminating against them because either they are unable to pay for those services or payment for those health services will be made under Medicare or Medicaid.

(2) May charge no more than the usual and customary rate prevailing in the geographic area in which the services are provided.

(3) Must provide care on a sliding fee scale for persons at or below 200 percent of poverty income level. Persons with third-party insurance may be charged the full fee for service.

(4) Must post a notice in a conspicuous location in the patient waiting area at the practice site to notify patients of the charges for service as required in this paragraph.

(5) Must provide evidence that the applicant facility made unsuccessful efforts to recruit a physician who is a United States physician for the position to be filled by the Exchange Visitor.

(6) Must provide a statement by the head of the facility to confirm the facility is located in a specific, designated HPSA or MUA/P, and that it provides medical care to Medicaid and Medicare eligible patients and to the uninsured indigent.

(f) The employer and the alien physician must submit information to the Secretary at the times and in the manner that the Secretary may reasonably require.

[67 FR 77696, Dec. 19, 2002]

### § 50.6 Procedures for submission of application to HHS.

(a) The Exchange Visitor Waiver Review Board will review applications submitted by private or non-federal institutions, organizations, or agencies or by a component agency of HHS. The Board will not accept applications submitted by Exchange Visitors or, unless under extenuating and exceptional circumstances, other U.S. Government Agencies.

(b) Applications, instruction sheets and information are available from the Executive Secretary, Exchange Visitor Waiver Review Board. An authorized official of the applicant institution (educational institution, hospital, laboratory, corporation, etc.) must sign the completed application. The applicant institution must send the completed application to the address indicated on the instruction sheet.

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